IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 11TH OCTOBER 2006 / 19TH ASWINA 1928

Bail Appl..No. 6056 of 2006

CRIME NO.165/2006 OF VARANTHARAPPILLY POLICE STATION

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PETITIONER/ACCUSED

LATHEEF P.P., AGED 33 YEARS,
S/O.ALIKUTTY, POTTENGAL HOUSE,
VELUPADAM P.O., KINAR STOP, THRISSUR DIST.

BY ADV. SRI.P.K.SAJEEV

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
S.I.OF POLICE, VARATHARAPPILLY POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 6056/2006

DATED THIS THE 11TH DAY OF OCTOBER, 2006

O R D E R

The petitioner is before this Court, under Section 438 Cr.P.C, as he is accused of the offence punishable under Section 307 IPC and also under Section 3 read with 25(1)(a) of the Arms Act, in crime No.165/2006 of Varantharappilly Police Station.

2. The prosecution alleges that the petitioner, who is an accused in another case under the Explosives Substances Act, was in possession of country made local firearm and shot at the defacto complainant, on the allegation that the defacto complainant had trespassed into the property and collected crump rubber pieces from the collecting vessel, fitted to the rubber tree.

3. However, the counsel for the petitioner submits that the petitioner is a handicaped person, as his lower portion, below the elbow of the right hand, is amputed and he is having fifty percent of disability. It is therefore,

submitted that the allegations, made against him, are false.

4. The learned Public Prosecutor vehemently opposed the giving of an order under Section 438 Cr.P.C. The materials that are placed from the C.D file also show that the petitioner is having interest in handling firearms and using explosive substances. Of course, it is for the petitioner to disprove the same during the trial.

5. In the above facts situation, I am not inclined to grant a pre-arrest order, under Section 438 Cr.P.C.

6. The petitioner may work out his own remedy, according to the law.

The application is dismissed as above.

J.M.JAMES
JUDGE

mrcs